

1
2 UNITED STATES DISTRICT COURT

3 DISTRICT OF NEVADA

4 * * *

5 Shawn Pritchett

Case No. 2:25-cv-00410-APG-BNW

6 Plaintiff,

7 v.

**SCREENING ORDER AND
REPORT AND RECOMMENDATION**

8 Nguyen & Law Attorneys at Law, et. al,

9 Defendants.
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11 Pro se plaintiff Shawn Pritchett brings several claims based on allegations that he received
12 a substandard legal representation during his habeas corpus case. Plaintiff submitted the affidavit
13 required by 28 U.S.C. § 1915(a) showing an inability to prepay fees or costs or give security for
14 them. Accordingly, the court will grant his request to proceed *in forma pauperis*. The court now
15 screens his complaint.

16 **I. ANALYSIS**17 **A. Screening standard**

18 Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint
19 under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims
20 and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be
21 granted or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
22 § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard
23 for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668
24 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must “contain sufficient
25 factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *See Ashcroft*
26 *v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only
27 dismiss them “if it appears beyond doubt that the plaintiff can prove no set of facts in support of
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1 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.
2 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of
4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylor*
5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
9 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se
10 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s
11 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

12 **B. Screening the complaint**

13 Plaintiff explains he wishes to bring suit against Defendants based on Nev. Rev. Stat.
14 § 11.207, which governs malpractice actions. He identifies 12 claims arising from alleged acts
15 and omissions by Defendants while representing him in a habeas corpus matter. None of these
16 claims arise “under the Constitution, laws, or treaties of the United States” and there is no
17 diversity of citizenship between the parties. As a result, this Court recommends that this action be
18 dismissed without leave to amend in this Court.

19 “Federal district courts are courts of limited jurisdiction, possessing only that power
20 authorized by Constitution and statute.” *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024,
21 1027 (9th Cir. 2011) (quotation omitted). Federal district courts “have original jurisdiction of all
22 civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C.
23 § 1331. Federal district courts have original jurisdiction over civil actions in diversity cases
24 “where the matter in controversy exceeds the sum or value of \$75,000” and where the matter is
25 between “citizens of different States.” 28 U.S.C. § 1332(a). “Section 1332 requires complete
26 diversity of citizenship; each of the plaintiffs must be a citizen of a different state than each of the
27 defendants.” *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001). Federal courts
28 have the jurisdiction to determine their own jurisdiction. *Special Investments, Inc. v. Aero Air*,

1 *Inc.*, 360 F.3d 989, 992 (9th Cir. 2004). A court may raise the question of subject-matter
2 jurisdiction sua sponte, and it must dismiss a case if it determines it lacks subject-matter
3 jurisdiction. *Id.*; Fed. R. Civ. P. 12(h)(3).

4 Here, Plaintiff does not allege facts invoking the court's jurisdiction. He alleges only
5 claims based on state claims and therefore does not invoke the court's federal-question
6 jurisdiction. Additionally, the parties are both citizens of Nevada. Thus, even liberally construing
7 his complaint, he does not allege facts invoking the court's diversity jurisdiction.

8 As the party seeking to invoke the court's jurisdiction, Plaintiff bears the burden of
9 establishing jurisdiction exists. *See Naffe v. Frey*, 789 F.3d 1030, 1040 (9th Cir. 2015). The court
10 therefore will recommend that this case be dismissed for lack of subject-matter jurisdiction,
11 without leave to amend. His claims should be pursued in state court.

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